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RUEAWJA/DEPT OF JUSTICE WASHDC
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SENSITIVE
SIPDIS

State for EAP/CM - SFlatt, PPark
State for EEB/IPE - RWatts, JUrban, TMcGowan
State for EEB/CIP - SFlynn, FSaeed
USTR for China Office - TStratford, TWineland, AWinter
USTR for IPR Office - JRagland, SMcCoy
Commerce for National Coordinator for IPR Enforcement
Commerce for MAC NMelcher, JWu, ESzymanski
Commerce for MAS RLayton, SMathews
LOC/Copyright Office - STEPP
USPTO for International Affairs - LBoland, EWu, STong
DOJ for CCIPS - MDubose and SChembtob
FTC for Blumenthal
FBI for LBryant
DHS/ICE for IPR Center - DFaulconer, TRandazzo
DHS/CBP for IPR Rights Branch - GMacray, PPizzeck
ITC for LLevine, LSchlitt

E.O. 12958: N/A

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SUBJECT: CHINA OBJECTS TO SPECIAL 301 DESIGNATION, WANTS MORE
CARROT AND LESS STICK

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Ref A: State 41880

11. (SBU) Summary: China objects to its designation as a Priority
Watch List (PWL) country in the U.S. Trade Representative's (USTR)
2009 Special 301 Report, Department of Treaty and Law Director
General Li Ling of China's Ministry of Commerce told visiting USTR
officials on May 27. She said that China has "tried its utmost to
improve IPR protection," and that while some problems remain,
piracy levels have declined consistently in recent years. The
United States has its own IPR problems, she asserted, and too
often uses a stick (e.g., the 301 Report) in international
relations, instead of the carrot of cooperation. USTR officials
acknowledged that China has made progress on IPR, and repeatedly
stressed USG interest in collaborating with China towards progress
on IPR protection. End Summary.

12. (SBU) Assistant USTR Tim Stratford and USTR China Office Chief
Counsel Claire Reade met on May 27 with Department of Treaty and
Law Director General Li Ling at China's Ministry of Commerce to
discuss the 2009 Special 301 Report's designation of China as a
Priority Watch List country with Section 306 monitoring. Per
reflet instructions, Emboffs notified DG Li by fax of the contents
of the 2009 Special 301 Report on April 30, at which time Li's
ministry had no substantive reaction.

13. (SBU) Stratford began and ended the discussion with assurances
of USG interest in working together with China on IPR protection,
and acknowledged his awareness that MOFCOM is very concerned with
strengthening China's IPR environment. Stratford also cited

several specific rightholders' concerns in China, particularly in the area of Internet piracy. He emphasized that USTR always seeks input from the Chinese government in preparing the report, and especially values reports of positive IPR developments in China.

¶4. (SBU) Li responded that China objects to the designation of PWL in the 301 Report, and has "tried its utmost to improve IPR protection." As examples, she noted the 2008 publication of China's National IPR Strategy and the publication in the past four consecutive years of China's IPR Action Plan. No other developing countries, to her knowledge, undertake similar efforts, she said. Li also noted that a recent report (probably the Business Software Alliance's annual Global Software Piracy Study) showed piracy levels in China declining over the past several years. While problems still exist, Li said, there has been progress.

¶5. (SBU) Li asserted that "even the United States" has IPR problems, and that Internet piracy, especially, is a global issue.

As an example, she cited her son, who she said is in the United States and downloads pirated music from U.S. websites. She asserted that neither the U.S. nor the EU have found effective ways to deal with the problem. Li said the United States too often uses a stick (i.e., the 301 Report) and not the carrot of cooperation in pursuing its international relations objectives.

¶6. (SBU) Stratford thanked Li for her feedback and acknowledged the progress China has made in IPR protection. He again stressed USG interest in cooperating with China on IPR issues, and noted the importance of the upcoming IPR Working Group under the Joint Commission on Commerce and Trade as one important opportunity for

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both countries to work together toward common goals.

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